

**INDIVIDUAL PRACTICES OF  
JUDGE BRIAN M. COGAN**

United States District Court  
Eastern District of New York

225 Cadman Plaza East  
Brooklyn, NY 11201

Chambers: 718-613-2230  
Fax: 718-613-2236

Unless otherwise ordered by Judge Cogan, matters before this Court shall be conducted in accordance with the following practices:

**I. Communications with Chambers**

**A. Docketing, Scheduling or Calendar Matters**

Criminal Cases: Call Courtroom Deputy Gaby Batista at (718) 613-2235 between 9:00 a.m. and 4:00 p.m.

Civil Cases: Call Peggy Weisberg at (718) 613-2232 between 9:00 a.m. and 4:00 p.m. To request an adjournment or extension of time, refer to Rule I.E. below.

**B. Letters**

Except as provided below, communications with Chambers shall be by letter electronically filed with the Court, with copies simultaneously delivered to all counsel. **NO HARD COPIES OF LETTERS, INCLUDING LETTERS REQUESTING EXTENSIONS OR ADJOURNMENTS, SHALL BE DELIVERED TO CHAMBERS OR TO THE COURT.**

Counsel shall not copy the Court on correspondence between and among them. For letters concerning discovery disputes, refer to Rule III.A.1. below.

**C. Telephone calls**

Telephone calls to Chambers are permitted between 9:00 a.m. and 4:00 p.m. However, do not call Chambers with procedural questions that are covered by the Local Rules of this Court and the Federal Rules of Civil Procedure.

**D. Faxes**

Faxes to Chambers are permitted for urgent matters requiring an immediate response from Chambers, and only if copies are simultaneously faxed or delivered to all counsel. Do not follow with a hard copy.

No document longer than ten pages may be faxed without prior authorization.

**E. Request for Adjournments or Extensions of Time in Civil Cases**

All requests for adjournments or extension of time must be by ECF letter (pro se litigants need not file by ECF) and must state:

1. The original date;
2. The number of previous requests for adjournment or extension;
3. Whether these previous requests were granted or denied;
4. Whether the adversary consents, and, if not, the reasons by the applicant, and by the adversary, for and against the relief requested; and
5. All other dates previously scheduled, including dates for conferences with the Court, and a suggested modified schedule, agreed to by all other counsel.

Absent an emergency, a request for adjournment of a court appearance must be made in writing at least 48 hours prior to the scheduled appearance.

**II. Electronic Case Filing (“ECF”)**

- A. All documents in civil actions shall be filed electronically. Orders will be posted electronically, and parties not registered on ECF will not receive them.
- B. *Pro se* parties are automatically exempt from mandatory ECF filing. However, parties represented by counsel must file documents electronically, even if that party’s adversary is *pro se*. For questions about filing and serving documents in cases in which one or more parties are proceeding *pro se*, contact the *pro se* office at 718-613-2665.
- C. For questions regarding ECF, call 718-613-2610. For technical assistance, call 718-613-2290. Attorneys should also refer to the Court’s website:  
[http://www.nyed.uscourts.gov/CM\\_ECF?cm\\_ecf.html](http://www.nyed.uscourts.gov/CM_ECF?cm_ecf.html).

### III. Pleadings and Motions

#### Motion Rules At A Glance

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|--------------------|--|
| Motion Returnable: | Any Court Day (Counsel should not appear)  |
| Oral Argument:     | Note “Oral Argument Requested” in caption of Notice of Motion or opposing memorandum |
| Filing Rules:      | In accordance with ECF Filing System   |
| Courtesy Copies:   | Yes  |

#### A. Pre-Motion Conferences

1. For discovery motions, follow Local Civil Rule 37.3. In addition, counsel should describe their disputes in a single letter, jointly composed. Separate and successive letters will be returned, unread. Strict adherence to Fed.R.Civ.P. 37(a)(2)(A), the meet and confer rule, is required, and should be described in the joint submission as to time, place and duration, naming the counsel involved in the discussion.
2. For all other motions in civil cases other than habeas corpus, social security, and bankruptcy appeals, a pre-motion conference is required before a party may file any motion. Parties must request a pre-motion conference in writing by ECF (except pro se). The moving party shall submit a letter not to exceed three pages in length setting forth the basis for the anticipated motion, and simultaneously serve the request on all counsel. Parties so served may serve and file a letter response, not to exceed three pages, within five days from service of the notification letter.
3. In criminal cases, counsel shall advise the Court of any contemplated motion at a status conference scheduled by the Court or, if no status conference is scheduled, counsel shall request a pre-motion conference in writing and briefly state the grounds for such a motion before filing any motion.

#### B. Motion Papers

Motion papers shall be filed promptly after service. Do not hold motion papers until all papers are complete.

1. Parties must identify and supply the Court with copies of any unpublished cases cited in their papers.

2. Unless prior permission has been granted, memoranda of law in support of or in opposition to motions are limited to 25 pages, double spaced, and reply memoranda are limited to 10 pages, double spaced. Use Times New Roman 12-point font and one-inch margins. All memoranda 10 pages or longer shall contain a table of contents and table of authorities.
3. Requests to file memoranda exceeding the page limits set forth herein must be made in writing five days prior to the due date, except with respect to reply briefs, in which case the written request must be made at least one day prior to the due date.
4. Affidavits or affirmations shall not be accepted on motions unless they are confined to factual averments. Attorney's affidavits or affirmations shall not be accepted unless: (a) the facts addressed are within the personal knowledge of the attorney, such as in a discovery dispute; or (b) the attorney is authenticating documents and it is believed that authentication is not in issue. Argument will not be considered if contained in attorneys' affidavits or affirmations.
5. On motion for summary judgment, do not attach complete deposition transcripts as exhibits. Attach only pages containing relevant testimony to which citation is made in the memorandum or affidavits.
6. All exhibits must be separately tabbed and indexed.
7. Hard courtesy copies of motion papers should be delivered to Chambers.

**C. Motions in Criminal Cases**

Applications regarding sentencing shall be made in writing by defense counsel at least five business days prior to the date of sentencing. The Government's response, if any, shall be made in writing at least two business days before the date of sentencing.

For all other motions, follow Rule III.B. above unless otherwise directed by the Court.

**D. Return Dates and Oral Argument**

In civil cases, parties may request oral argument by noting "Oral Argument Requested" in their Notice of Motion or opposing memorandum. Motions shall be returnable on weekdays at 9:30 a.m., but counsel should not appear in Court on the return date. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

Oral argument on all criminal motions will be heard on a date set by the Court.

#### **IV. Pretrial Procedures**

##### **A. Pretrial Conferences in Criminal Cases**

Assistant United States Attorneys are responsible for informing Chambers by calling Courtroom Deputy Gaby Batista, 718-613-2235, when a new case has been assigned to Judge Cogan. Upon such notification, an initial pretrial conference will be scheduled.

##### **B. Pretrial Procedures in Civil Cases**

1. In all civil actions commenced after June 12, 2006, except *pro se* cases, all matters will be heard by Judge Cogan rather than the assigned Magistrate Judge unless an Order of Referral has been entered.

2. Pretrial orders are not required unless specifically directed by the Court in a particular case.

3. Filings Prior to Trial in Civil Cases

Unless otherwise ordered by the Court, each party shall file, as soon as conveniently possible before the trial readiness date as set in the case management plan:

- (a) In jury trials, requests to charge, proposed *voir dire* questions, and a proposed verdict form in hard copy and electronically (on 3.5" disk using Microsoft Word, or by email if given prior approval);
- (b) Proposed *voir dire* questions;
- (c) Witness list and exhibit list;
- (d) A pretrial memorandum in any case where a party believes it would be useful.

4. At the Beginning of Trial

The following must be handed to the Courtroom Deputy:

- (a) A complete set of documentary exhibits;
- (b) A list of all exhibits, with an extra copy of the list for the Courtroom Deputy; and
- (c) A copy of the list of witnesses.